

Leiden University Regulations on Whistleblowers 2017

Preamble

The Executive Board of Leiden University

considers it important that possible wrongdoings within the organisation can be safely reported, and has therefore drawn up the Regulations on Whistleblowers. Whistleblowing can be defined as the disclosure by an employee or student of Leiden University of suspicions of illegal or immoral practices that are taking place under the responsibility of Leiden University and in which an important interest of the general public or the institution is at stake.

The purpose of these Regulations is therefore on the one hand to offer legal protection to the employees and students concerned; on the other hand, the Regulations offer Leiden University the opportunity to seriously investigate a possible wrongdoing within the organisation.

Considering that it is desirable, in the context of integrity policy, for the University to adopt regulations in respect of reporting a suspected wrongdoing (whistleblowing), the Executive Board of Leiden University

resolves to adopt:

the Leiden University Regulations on Whistleblowers 2017

Chapter 1. General provisions

Article 1.1. Definitions

1. As used in these Regulations, the following terms have the following meanings:
 - a. the University: Leiden University;
 - b. Executive Board: the Executive Board of the University;
 - c. Board of Governors: the Board of Governors of the University;
 - d. Committee: the Committee referred to in Article 3.1;
 - e. Suspicion of wrongdoing: an employee's suspicion that a wrongdoing is being committed within the organisation in which he/she works or has worked or in another organisation if he/she has come into contact with that organisation through his/her work, insofar as:
 - 1°. the suspicion is based on reasonable grounds, arising from the knowledge acquired by the employee while working for his/her employer or arising from the knowledge obtained by the employee through his/her work for another company or organisation, and
 - 2°. public interest is at stake where a statutory provision is violated, public health is endangered, the safety of individuals is endangered, the environment is at risk of being damaged or the proper functioning of public service or a business is endangered in consequence of an improper act or omission;
 - f. Employee's Manager: the manager of the organisational unit within which the wrongdoing is suspected;
 - g. Student's Manager: the student's manager is deemed to be the Programme Director of the study programme within which the wrongdoing is suspected;
 - h. Employee: a person who, whether or not in accordance with the Collective Labour Agreement (CAO) for Dutch Universities, has or – no more than twelve months ago – had an appointment at the University, or is or – no more than twelve months ago – was working in another way under the responsibility of the University;

i. Student: a student who is or – no more than twelve months ago – was registered as such with the University;

j. Notifier: an employee or student who reports a suspicion of wrongdoing;

k. Confidential Counsellor for wrongdoing: a person who has been designated as such by the Executive Board.

2. A suspicion of wrongdoing is not understood to mean a suspicion of violation of academic integrity within the meaning of the Leiden University Regulation on Complaints regarding Academic Integrity.

Article 1.2. Advice and counselling by the Confidential Counsellor

1. In the context of these Regulations, the Executive Board designates one or more Confidential Counsellors.

2. The tasks of the Confidential Counsellor are:

a. to assist Notifiers who have a suspicion of wrongdoing, and to give them advice and support;

b. to inform Notifiers about the various routes open for finding a solution to the problem or for reporting a suspicion of wrongdoing;

c. to counsel Notifiers if they wish to have mediation in the case or wish to report it to their Manager or the Committee;

d. to refer Notifiers, if they so wish, to experts in the area of the suspected wrongdoing;

e. to act as a contact person with a view to ensuring that Notifiers do not suffer detriment.

3. The Confidential Counsellor is accountable to the Executive Board for performing his/her tasks.

4. Where sufficient cause exists, the Confidential Counsellor concerned will advise that a suspicion of wrongdoing should be reported.

Chapter 2. Internal reporting and procedure

Article 2.1. Internal reporting to the Manager

1. An Employee or Student who has a suspicion of wrongdoing reports this suspicion to the relevant Manager.

2. The Manager sends a confirmation of receipt to the Notifier who has reported a suspicion of wrongdoing; this confirmation contains a description of the reported suspicion and the time at which the Notifier reported the suspicion.

3. The Manager referred to in the first paragraph ensures that the Executive Board is immediately notified of a reported suspicion and of the date on which the report was received.

4. On the basis of the report of a suspicion of wrongdoing, the Manager immediately conducts an investigation as described in Article 3.7, where “the Committee” is to be read as: “the Manager”.

5. Contrary to the provisions of the previous paragraphs, the Notifier can report a suspicion of wrongdoing directly to the Committee, if compelling interests prevent application of those paragraphs.

6. If the report pertains to a suspicion of wrongdoing committed by the Executive Board or by one or more of its members, the report will be made to the Board of Governors. In that case, only the provisions of the second, third and fourth paragraphs of this article and Article 2.2, second and fourth paragraphs, of these Regulations are applicable, or applicable *mutatis mutandis*.

7. The report will be made in writing (by post or by e-mail) and will

a. contain a clear description of the wrongdoing;

b. state the date and, unless the provisions of Article 2.2, third paragraph, are applicable, the Notifier’s name, position (where relevant) and contact details.

8. Anonymous reports will not be accepted for processing, unless the provisions of Article 2.2, third paragraph, are applicable.

9. An internal report does not affect the legal obligation to report a criminal offence.

Article 2.2. Internal reporting via the Confidential Counsellor

1. An Employee or Student who has a suspicion of wrongdoing but does not wish to directly make an internal report of that suspicion him/herself can ask one of the Confidential Counsellors to do this for or on behalf of him/her.

2. The Confidential Counsellor will forward the Notifier's report in accordance with the provisions of Article 2.1.

3. On the Notifier's request, reporting via the Confidential Counsellor can take place anonymously, provided that the Confidential Counsellor knows the Notifier's name, position (where relevant) and contact details.

4. In that case, the Manager will send the confirmation of receipt as referred to in Article 2.1, second paragraph, to the Confidential Counsellor, who will forward the confirmation of receipt to the Notifier.

Article 2.3. Standpoint of the Manager

1. Within a period of eight weeks from the time of the internal report to the Manager, the Notifier will be notified in writing by or on behalf of the Manager of a substantive standpoint concerning the reported suspicion of wrongdoing.

2. If the standpoint cannot be given within eight weeks, the Employee or Student will be informed of this by or on behalf of the Manager, with an indication of the period within which he/she can expect a standpoint.

3. The Employee or Student can report the suspicion of wrongdoing to the Committee if:

- a. he/she does not agree with the standpoint;
- b. he/she has not received a standpoint within the required period referred to in the first and second paragraphs, or
- c. the period referred to in the second paragraph is unreasonably long, taking account of all the circumstances, or
- d. he/she takes the view that the situation is one as referred to in Article 2.1, fifth paragraph.

4. If the Notifier does not report the suspicion to the Committee, a copy of the Manager's standpoint will be sent to the Executive Board.

Chapter 3. The Leiden University Whistleblowers Committee and the reporting procedure

Article 3.1. Creation and tasks of the Committee

1. There is a Leiden University Whistleblowers Committee.

2. The Committee's task, as part of the internal reporting procedure, is to investigate a suspicion of wrongdoing reported by the Notifier and to advise the Executive Board thereon.

Article 3.2. Composition of the Committee

1. The Committee consists of a chair, who is also a member, and two other members. The Committee appoints a deputy chair from among its members.

2. The Executive Board can appoint one or more deputy members.
3. In the absence of the chair or another member, or if the chair or another member is directly or indirectly involved in a report that is to be assessed, the deputy chair or a deputy member will take his/her place.
4. The chair, other members and deputy members of the Committee are appointed by the Executive Board for a term of three years, at the end of which they can be reappointed for subsequent terms of three years.
5. The members of the Executive Board, the members of the Board of Governors, the members of the Faculty Boards and the chairs of departments, the directors of institutes of teaching and research and the directors of expertise centres of the University are not eligible for appointment.
6. Discharge before the end of the specified term will take place on the member's own request. Discharge before the end of the specified term can also take place in consequence of unsatisfactory performance as a (deputy) member of the Committee.

Article 3.3. Secretary

The Committee is assisted by a secretary appointed by the Executive Board, who must have sufficient legal knowledge.

Article 3.4. Confirmation of receipt and the investigation

1. The Committee sends confirmation that it has received a report of a suspicion of wrongdoing to the Notifier who reported the suspicion to it and notifies the Executive Board of the report.
2. If the Committee deems this necessary for performing its task, it will conduct an investigation. The Committee can assign the investigation to one of its members, who will then act on its behalf.

Article 3.5. Powers of the Committee

1. The Committee is authorised to obtain information from all staff members, students and bodies of the University. It can demand inspection of all documentation and correspondence that it deems important for assessing the report.
2. The Committee can consult experts, whether or not employed by the University. A written report will be produced of this consultation.
3. The Committee creates a file for each report of suspected wrongdoing that it handles. From this, no confidentially given information will be supplied to others, except with the permission of those concerned.

Article 3.6. Inadmissibility

1. The Committee will declare the report inadmissible if:
 - a. it does not concern a wrongdoing on which the Committee advises, or does not pertain to a suspicion of wrongdoing;
 - b. the suspicion is not based on reasonable grounds;
 - c. the Notifier does not demonstrate that he/she has first reported the suspicion internally, as prescribed in Article 2.1, first paragraph, unless the situation is one as referred to in Article 2.1, fifth paragraph, or
 - d. the Notifier has reported the suspicion internally, as prescribed in Article 2.1, first paragraph, but a reasonable period has not yet elapsed since the internal report.
2. A reasonable period, as referred to in the first paragraph, subparagraph d, has elapsed if:

- a. a Manager's standpoint has not been given to the Notifier who reported a suspicion of wrongdoing within a period of eight weeks from the time of the internal report, unless the Manager has informed the Notifier that he/she cannot expect a standpoint within a period of eight weeks;
 - b. the Manager has not set a period as referred to in Article 2.3, second paragraph;
 - c. the period set by the Manager, referred to in Article 2.3, second paragraph, has elapsed and a Manager's standpoint has not been notified to the Notifier, or
 - d. the period set by the Manager, referred to in Article 2.3, second paragraph, is not reasonable, taking account of all the circumstances.
3. The Committee will inform both the Executive Board and the Notifier who reported a suspicion of wrongdoing to the Committee that the report is inadmissible, stating the reasons for this.

Article 3.7. Procedure of the investigation

1. If an investigation is conducted, the Committee will notify this to the Notifier and/or the Confidential Counsellor, and also the person(s) to whom the report pertains, unless this could be detrimental to the interests of the investigation.
2. The Committee will assign the investigation to one or more investigators who are independent, impartial and have expertise in the matter, and will in any case not assign the investigation to persons who possibly are or were involved in the suspected wrongdoing. A staff member who is asked by the Committee to act as an investigator can claim exemption by stating, with reasons, that fulfilling this task would (possibly) create a conflict of interests.
3. The Committee can, if necessary, consult an (external) expert or ask an (external) expert to make investigations.
4. In conducting the investigation, the principle of hearing both sides will be observed.
5. The design of the investigation, the method of conducting the investigation and the results of the investigation, preferably accompanied by advice, will be set down in a written report.
6. The written report will, if possible, be given to the Executive Board within eight weeks after the start of the investigation.

Article 3.8. The Committee's advice

1. If the reported suspicion of wrongdoing is admissible, the Committee will set down its findings concerning the report of a suspicion of wrongdoing in advice addressed to the Executive Board as soon as possible.
2. The Notifier who reported the suspicion of wrongdoing to the Committee will receive a copy of the advice, taking due account of the possibly confidential character of information given to the Committee and the applicable regulations.
3. The advice will be published in anonymised form, and taking due account of the possibly confidential character of information given to the Committee and the applicable regulations, in a manner deemed appropriate by the Committee, unless compelling interests dictate otherwise.

Article 3.9. Standpoint of the Executive Board

1. The Executive Board will adopt a substantive standpoint within two weeks after receiving the advice as referred to in Article 3.8 and will notify this standpoint in writing to the Notifier and/or the Confidential Counsellor as soon as possible, also stating the steps to which the report has led or will lead.
2. If the Executive Board's standpoint cannot be given within the specified period, the Executive Board will inform the Notifier and/or the Confidential Counsellor about this in writing, also stating the period within which the standpoint can be expected. If the total period, calculated from the

Committee receiving the report to the Executive Board giving its standpoint, thus amounts to more than twelve weeks, an explanation will also be given of why a longer period is necessary.

Article 3.10. Annual Report

1. The Committee will produce an Annual Report every year.
2. This Annual Report will state, in anonymised terms and taking due account of the applicable regulations:
 - a. the number and nature of the reports of a suspicion of wrongdoing;
 - b. the number of reports that did not lead to an investigation;
 - c. the number of investigations conducted by the Committee, and
 - d. the number of times the Committee issued advice and the nature of the advice.
3. This Annual Report will be sent to the Executive Board, which will immediately send the Annual Report to the Board of Governors and the University Council. The Executive Board mentions this Annual Report in the report referred to in Article 2.9 of the Higher Education and Research Act (*Wet op het hoger onderwijs en wetenschappelijk onderzoek*; WHW).

Chapter 4. External reporting

Article 4.1. External reporting

1. After making an internal report, the Notifier can make an external report of a suspicion of wrongdoing to or via the Whistleblowers Authority (*Huis voor klokkenluiders*) if:
 - a. He/she does not agree with the Committee's decision, as referred to in Article 3.6, first paragraph, that it will not process the report further;
 - b. He/she takes the view that the internal procedure has not led to satisfactory measures to eliminate the suspected wrongdoing;
 - c. The handling of the report has not been completed promptly (within twelve weeks) by the Committee and the Executive Board and the period for handling the report has been extended by an unreasonably long period.
2. If compelling interests prevent use of internal reporting, the Employee or Student can, contrary to the provisions of the previous paragraph, report the suspicion of wrongdoing directly to or via the Whistleblowers Authority, or to an external organisation designated for this purpose.
3. If there is a reasonable suspicion of a criminal offence or a serious danger to public health, safety or the environment, an Employee or Student can report this directly to the organisation authorised for this purpose.

Chapter 5. (Legal) protection

Article 5.1. Protection of the Notifier and other involved parties against detriment

1. The Notifier must suffer no detriment whatsoever with respect to his/her status, including his or her legal status, within the University in consequence of reporting a suspicion of wrongdoing in good faith and in a proper manner, and insofar as he/she derives no personal advantage from the wrongdoing or the reporting thereof.
2. The Executive Board will ensure as far as possible that the Notifier also does not otherwise suffer detriment in performing his/her duties or following his/her studies in consequence of a report made in good faith and in a proper manner.

3. The Executive Board will also ensure as far as possible that persons involved in handling a report of a suspicion of wrongdoing, including the Confidential Counsellor, suffer no detriment whatsoever with respect to their legal status, or otherwise in performing their duties, in consequence of making statements or performing tasks specified in these Regulations in good faith.

4. If a decision is taken to dismiss a Notifier, or not to promote him/her to a higher position or salary scale, the Executive Board must give reasons to substantiate that this decision is not related to the report made in good faith. This protection will last in any case until three years after the handling of the report has been completed in the manner referred to in Articles 3.6, 3.9 and 4.1.

Article 5.2. Confidential treatment of the report and the Notifier's identity

1. Any party that is involved in handling a report of a suspicion of wrongdoing will not disclose the Notifier's identity without his/her explicit permission and will treat the information about the report confidentially.

2. If the suspicion of wrongdoing has been reported via the Confidential Counsellor and the Notifier has not given permission for his/her identity to be disclosed, all correspondence about the report will be sent to the Confidential Counsellor, and the Confidential Counsellor will immediately forward it to the Notifier.

3. The Executive Board will ensure that the information about the report is stored in such a way that it is physically and digitally only accessible to persons who are necessarily involved in handling the report.

Chapter 6. Final provisions

Article 6.1. Effective date

These Regulations enter into effect on 1 December 2017 and replace the preceding Leiden University Regulations on Reporting Irregularities of 1 January 2005.

Article 6.2. Official title

These Regulations may be cited as the Leiden University Regulations on Whistleblowers.

Adopted by the Executive Board on 10 October 2017 after receiving the advice of the Local Consultative Committee and the University Council, and approved by the Board of Governors on 27 September 2017.

Contact details of the Whistleblowers Authority

The Whistleblowers Authority can refer the Employee to the correct organisation and sometimes also conducts investigations itself. In addition to its Investigation Department, the Whistleblowers Authority also has an Advice Department, which advises employees on how to deal with wrongdoings. The two departments are strictly separate from each other.

Telephone

For questions about reporting wrongdoings: 088 - 371 30 31.

For questions of employers and other questions: 088 - 371 30 32 or mail to: kenniscentrum@huisvoorklokkenluiders.nl.

E-mail

For advice on reporting wrongdoings: advies@huisvoorklokkenluiders.nl.
For employers and general matters: info@huisvoorklokkenluiders.nl.

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